

ASSEMBLY BILL

No. 192

Introduced by Assembly Member Canciamilla

February 7, 2001

An act to amend Sections 11121, 11123, 11125, 11125.3, 11126, and 11126.3 of, to add Sections 11121.1 and 11122.5 to, and to repeal Sections 11121.2, 11121.7, and 11121.8 of, the Government Code, and to amend Section 5080.24 of the Public Resources Code, relating to open meetings.

LEGISLATIVE COUNSEL'S DIGEST

AB 192, as introduced, Canciamilla. State bodies: open meetings.

(1) The Bagley-Keene Open Meeting Act requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body.

This bill would reorganize and recast the definition of “state body” for the purposes of the act. The bill would make conforming changes in this regard.

(2) The act defines the term “action taken” to mean, among other things, a collective decision made by members of a state body, but does not define the term “meeting.” The act does not prohibit a state body from holding an open or closed meeting by teleconference if the convening at one location of a quorum of the state body is difficult or impossible, subject to specified conditions.

The bill would define “meeting” for the purposes of the act to include any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body in which it presides.

This bill, with the exception of teleconferencing, would prohibit any use of direct communication, personal intermediaries, or technological devices employed by a majority of the members of the state body to develop a collective concurrence as to action to be taken on an item by the members of the state body. The bill would not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body provided the meeting or proceeding complies with all applicable requirements or law relating to a specific type of meeting or proceeding. The bill would require a state body electing to conduct a meeting or proceeding by teleconference to post agendas at all teleconference locations and to conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body.

(3) Existing law authorizes a state body to take action on items of business not appearing on the posted agenda under a determination by a vote of the state body that an emergency situation exists or that there exists a need to take immediate action and that the need for the immediate action came to the attention of the state body subsequent to the agenda being posted. The act specifies the manner in which notice of the additional item to be considered by the state body is to be posted.

This bill would require notice to be made available on the Internet as soon as is practicable after the decision to consider additional items at a meeting has been made.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11121 of the Government Code is
2 amended to read:

3 11121. As used in this article “state body” means ~~every~~ *each*
4 *of the following*:

5 (a) *Every* state board, or commission, or similar multimember
6 body of the state that is *created by statute or* required by law to
7 conduct official meetings and every commission created by
8 executive order, ~~but does not include~~:

9 ~~(a) State agencies provided for in Article VI of the California~~
10 ~~Constitution.~~

11 ~~(b) Districts or other local agencies whose meetings are~~
12 ~~required to be open to the public pursuant to the Ralph M. Brown~~

~~Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).~~

~~(e) State agencies provided for in Article IV of the California Constitution whose meetings are required to be open to the public pursuant to the Grunsky-Burton Open Meeting Act (Sections 9027 to 9032, inclusive).~~

~~(d) State agencies when they are conducting proceedings pursuant to Section 3596.~~

~~(e) State agencies provided for in Section 109260 of the Health and Safety Code, except as provided in Section 109390 of the Health and Safety Code.~~

~~(f) State agencies provided for in Section 11770.5 of the Insurance Code.~~

~~(g) The Credit Union Advisory Committee established pursuant to Section 14380 of the Financial Code.~~

(b) Any board, commission, committee, or similar multimember body that exercises any authority of a state body delegated to it by that state body.

(c) Any advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body, if created by formal action of the state body or of any member of the state body, and if the advisory body so created consists of three or more persons.

(d) Any board, commission, committee, or similar multimember body on which a member of a body that is a state body pursuant to this section serves in his or her official capacity as a representative of that state body and which is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

SEC. 2. Section 11121.1 is added to the Government Code, to read:

11121.1. As used in this article “state body” does not include any of the following:

(a) State agencies provided for in Article VI of the California Constitution.

(b) Districts or other local agencies whose meetings are required to be open to the public pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).

(c) State agencies provided for in Article IV of the California Constitution whose meetings are required to be open to the public pursuant to the Grunsky-Burton Open Meeting Act (Article 2.2 (commencing with Section 9027) of Chapter 1.5 of Part 1 of Division 2 of Title 2).

(d) State agencies when they are conducting proceedings pursuant to Section 3596.

(e) State agencies provided for in Section 109260 of the Health and Safety Code, except as provided in Section 109390 of the Health and Safety Code.

(f) State agencies provided for in Section 11770.5 of the Insurance Code.

(g) The Credit Union Advisory Committee established pursuant to Section 14380 of the Financial Code.

SEC. 3. Section 11121.2 of the Government Code is repealed.

~~11121.2. As used in this article, “state body” also means any board, commission, committee, or similar multimember body which exercises any authority of a state body delegated to it by that state body.~~

SEC. 4. Section 11121.7 of the Government Code is repealed.

~~11121.7. As used in this article, “state body” also means any board, commission, committee, or similar multimember body on which a member of a body which is a state body pursuant to Section 11121, 11121.2, or 11121.5 serves in his or her official capacity as a representative of such state body and which is supported, in whole or in part, by funds provided by the state body, whether such body is organized and operated by the state body or by a private corporation.~~

SEC. 5. Section 11121.8 of the Government Code is repealed.

~~11121.8. As used in this article, “state body” also means any advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body, if created by formal action of the state body or of any member of the state body, and if the advisory body so created consists of three or more persons.~~

SEC. 6. Section 11122.5 is added to the Government Code, to read:

11122.5. (a) As used in this article, “meeting” includes any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item

1 that is within the subject matter jurisdiction of the state body to
2 which it pertains.

3 (b) Except as authorized pursuant to Section 11123, any use of
4 direct communication, personal intermediaries, or technological
5 devices that is employed by a majority of the members of the state
6 body to develop a collective concurrence as to action to be taken
7 on an item by the members of the state body is prohibited.

8 (c) The prohibitions of this article do not apply to any of the
9 following:

10 (1) Individual contacts or conversations between a member of
11 a state body and any other person.

12 (2) The attendance of a majority of the members of a state body
13 at a conference or similar gathering open to the public that involves
14 a discussion of issues of general interest to the public or to public
15 agencies of the type represented by the state body, provided that
16 a majority of the members do not discuss among themselves, other
17 than as part of the scheduled program, business of a specified
18 nature that is within the subject matter jurisdiction of the state
19 body. This paragraph is not intended to allow members of the
20 public free admission to a conference or similar gathering at which
21 the organizers have required other participants or registrants to pay
22 fees or charges as a condition of attendance.

23 (3) The attendance of a majority of the members of a state body
24 at an open and publicized meeting organized to address a topic of
25 state concern by a person or organization other than the state body,
26 provided that a majority of the members do not discuss among
27 themselves, other than as part of the scheduled program, business
28 of a specific nature that is within the subject matter jurisdiction of
29 the state body.

30 (4) The attendance of a majority of the members of a state body
31 at an open and noticed meeting of another state body or of a
32 legislative body of a local agency as defined by Section 54951,
33 provided that a majority of the members do not discuss among
34 themselves, other than as part of the scheduled meeting, business
35 of a specific nature that is within the subject matter jurisdiction of
36 the other state body.

37 (5) The attendance of a majority of the members of a state body
38 at a purely social or ceremonial occasion, provided that a majority
39 of the members do not discuss among themselves business of a

1 specific nature that is within the subject matter jurisdiction of the
2 state body.

3 (6) The attendance of a majority of the members of a state body
4 at an open and noticed meeting of a standing committee of that
5 body, provided that the members of the state body who are not
6 members of the standing committee attend only as observers.

7 SEC. 7. Section 11123 of the Government Code is amended
8 to read:

9 11123. (a) All meetings of a state body shall be open and
10 public and all persons shall be permitted to attend any meeting of
11 a state body except as otherwise provided in this article.

12 (b) (1) ~~Nothing in this~~ *This article shall be construed to does*
13 *not prohibit a state body from holding an open or closed meeting*
14 *by teleconference if the convening at one location of a quorum of*
15 *the state body is difficult or impossible, subject to all of for the*
16 *benefit of the public and state body. The meeting or proceeding*
17 *held by teleconference shall otherwise comply with all applicable*
18 *requirements or laws relating to a specific type of meeting or*
19 *proceeding, including the following:*

20 (A) The teleconferencing meeting shall comply with all
21 requirements of this article applicable to other meetings.

22 (B) The portion of the teleconferenced meeting that is required
23 to be open to the public shall be audible to the public at the location
24 specified in the notice of the meeting.

25 ~~(C) Each teleconference location shall be identified in the~~
26 ~~notice of the meeting and shall be accessible to the public.~~

27 (C) *If the state body elects to conduct a meeting or proceeding*
28 *by teleconference, it shall post agendas at all teleconference*
29 *locations and conduct teleconference meetings in a manner that*
30 *protects the rights of any party or member of the public appearing*
31 *before the state body. Each teleconference location shall be*
32 *identified in the notice and agenda of the meeting or proceeding,*
33 *and each teleconference location shall be accessible to the public.*
34 *The agenda shall provide an opportunity for members of the public*
35 *to address the legislative body directly pursuant to Section 11125.7*
36 *at each teleconference location.*

37 (D) All votes taken during a teleconferenced meeting shall be
38 by rollcall.



1 (E) The portion of the teleconferenced meeting that is closed to
2 the public may not include the consideration of any agenda item
3 being heard pursuant to Section 11125.5 of the Government Code.

4 (F) At least one member of the state body shall be physically
5 present at the location specified in the notice of the meeting.

6 (2) For the purposes of this subdivision, “teleconference”
7 means ~~a conference of individuals in different locations,~~
8 ~~connected by electronic means, through either audio or video, or~~
9 ~~both meeting of a state body, the members of which are at different~~
10 ~~locations, connected by electronic means, through either audio or~~
11 ~~both audio and video. This section does not prohibit a state body~~
12 ~~from providing members of the public with additional locations in~~
13 ~~which the public may observe or address the state body by~~
14 ~~electronic means, through either audio or both audio and video.~~

15 SEC. 8. Section 11125 of the Government Code is amended
16 to read:

17 11125. (a) The state body shall provide notice of its meeting
18 to any person who requests that notice in writing. Notice shall be
19 given and also made available on the Internet at least 10 days in
20 advance of the meeting, and shall include the name, address, and
21 telephone number of any person who can provide further
22 information prior to the meeting, but need not include a list of
23 witnesses expected to appear at the meeting. The written notice
24 shall additionally include the address of the Internet site where
25 notices required by this article are made available.

26 (b) The notice of a meeting of a body that is a state body ~~as~~
27 ~~defined in Section 11121, 11121.2, 11121.5, or 11121.7~~ shall
28 include a specific agenda for the meeting, ~~which shall include~~
29 *containing a brief description of the items of business to be*
30 *transacted or discussed in either open or closed session.* A brief
31 general description of an item generally need not exceed 20 words.
32 A description of an item to be transacted or discussed in closed
33 session shall include a citation of the specific statutory authority
34 under which a closed session is being held. No item shall be added
35 to the agenda subsequent to the provision of this notice, *unless*
36 *otherwise permitted by this article.*

37 (c) ~~The notice of a meeting of an advisory body that is a state~~
38 ~~body as defined in Section 11121.8 shall include a brief, general~~
39 ~~description of the business to be transacted or discussed, and no~~
40 ~~item shall be added subsequent to the provision of the notice.~~

1 ~~(d)~~—Notice of a meeting of a state body that complies with this
2 section shall also constitute notice of a meeting of an advisory
3 body of that state body, provided that the business to be discussed
4 by the advisory body is covered by the notice of the meeting of the
5 state body, provided that the specific time and place of the advisory
6 body's meeting is announced during the open and public state
7 body's meeting, and provided that the advisory body's meeting is
8 conducted within a reasonable time of, and nearby, the meeting of
9 the state body.

10 ~~(e)~~—
11 (d) A person may request, and shall be provided, notice
12 pursuant to subdivision (a) for all meetings of a state body or for
13 a specific meeting or meetings. In addition, at the state body's
14 discretion, a person may request, and may be provided, notice of
15 only those meetings of a state body at which a particular subject
16 or subjects specified in the request will be discussed.

17 ~~(f)~~—
18 (e) A request for notice of more than one meeting of a state
19 body shall be subject to the provisions of Section 14911.

20 SEC. 9. Section 11125.3 of the Government Code is amended
21 to read:

22 11125.3. (a) Notwithstanding Section 11125, a state body
23 may take action on items of business not appearing on the posted
24 agenda under any of the conditions stated below:

25 (1) Upon a determination by a majority vote of the state body
26 that an emergency situation exists, as defined in Section 11125.5.

27 (2) Upon a determination by a two-thirds vote of the state body,
28 or, if less than two-thirds of the members are present, a unanimous
29 vote of those members present, that there exists a need to take
30 immediate action and that the need for action came to the attention
31 of the state body subsequent to the agenda being posted as
32 specified in Section 11125.

33 (b) Notice of the additional item to be considered shall be
34 provided to each member of the state body and to all parties that
35 have requested notice of its meetings as soon as is practicable after
36 a determination of the need to consider the item is made, but shall
37 be delivered in a manner that allows it to be received by the
38 members and by newspapers of general circulation and radio or
39 television stations at least 48 hours before the time of the meeting
40 specified in the notice. Notice shall be made available to

1 newspapers of general circulation and radio or television stations
2 by providing that notice to all national press wire services. Notice
3 ~~shall be provided to the general public by placing it on appropriate~~
4 ~~electronic bulletin boards or other appropriate mechanisms,~~
5 ~~whenever the state body has the electronic capability necessary to~~
6 ~~do so~~ *also be made available on the Internet as soon as is*
7 *practicable after the decision to consider additional items at a*
8 *meeting has been made.*

9 SEC. 10. Section 11126 of the Government Code is amended
10 to read:

11 11126. (a) (1) Nothing in this article shall be construed to
12 prevent a state body from holding closed sessions during a regular
13 or special meeting to consider the appointment, employment,
14 evaluation of performance, or dismissal of a public employee or
15 to hear complaints or charges brought against that employee by
16 another person or employee unless the employee requests a public
17 hearing.

18 (2) As a condition to holding a closed session on the complaints
19 or charges to consider disciplinary action or to consider dismissal,
20 the employee shall be given written notice of his or her right to
21 have a public hearing, rather than a closed session, and that notice
22 shall be delivered to the employee personally or by mail at least 24
23 hours before the time for holding a regular or special meeting. If
24 notice is not given, any disciplinary or other action taken against
25 any employee at the closed session shall be null and void.

26 (3) The state body also may exclude from any public or closed
27 session, during the examination of a witness, any or all other
28 witnesses in the matter being investigated by the state body.

29 (4) Following the public hearing or closed session, the body
30 may deliberate on the decision to be reached in a closed session.

31 (b) For the purposes of this section, “employee” ~~shall~~ *does* not
32 include any person who is elected to, or appointed to a public office
33 by, any state body. However, officers of the California State
34 University who receive compensation for their services, other than
35 per diem and ordinary and necessary expenses, shall, when
36 engaged in that capacity, be considered employees. Furthermore,
37 for purposes of this section, the term employee ~~shall include~~
38 *includes* a person exempt from civil service pursuant to
39 subdivision (e) of Section 4 of Article VII of the California
40 Constitution.

1 (c) Nothing in this article shall be construed to do any of the
2 following:

3 (1) Prevent state bodies that administer the licensing of persons
4 engaging in businesses or professions from holding closed
5 sessions to prepare, approve, grade, or administer examinations.

6 (2) Prevent an advisory body of a state body that administers
7 the licensing of persons engaged in businesses or professions from
8 conducting a closed session to discuss matters that the advisory
9 body has found would constitute an unwarranted invasion of the
10 privacy of an individual licensee or applicant if discussed in an
11 open meeting, provided the advisory body does not include a
12 quorum of the members of the state body it advises. Those matters
13 may include review of an applicant's qualifications for licensure
14 and an inquiry specifically related to the state body's enforcement
15 program concerning an individual licensee or applicant where the
16 inquiry occurs prior to the filing of a civil, criminal, or
17 administrative disciplinary action against the licensee or applicant
18 by the state body.

19 (3) Prohibit a state body from holding a closed session to
20 deliberate on a decision to be reached in a proceeding required to
21 be conducted pursuant to Chapter 5 (commencing with Section
22 11500) of Part 1 of Division 3 of Title 2 or similar provisions of
23 law.

24 (4) Grant a right to enter any correctional institution or the
25 grounds of a correctional institution where that right is not
26 otherwise granted by law, nor shall anything in this article be
27 construed to prevent a state body from holding a closed session
28 when considering and acting upon the determination of a term,
29 parole, or release of any individual or other disposition of an
30 individual case, or if public disclosure of the subjects under
31 discussion or consideration is expressly prohibited by statute.

32 (5) Prevent any closed session to consider the conferring of
33 honorary degrees, or gifts, donations, and bequests that the donor
34 or proposed donor has requested in writing to be kept confidential.

35 (6) Prevent the Alcoholic Beverage Control Appeals Board
36 from holding a closed session for the purpose of holding a
37 deliberative conference as provided in Section 11125.

38 (7) (A) Prevent a state body from holding closed sessions with
39 its negotiator prior to the purchase, sale, exchange, or lease of real
40 property by or for the state body to give instructions to its

1 negotiator regarding the price and terms of payment for the
2 purchase, sale, exchange, or lease.

3 (B) However, prior to the closed session, the state body shall
4 hold an open and public session in which it identifies the real
5 property or real properties that the negotiations may concern and
6 the person or persons with whom its negotiator may negotiate.

7 (C) For purposes of this paragraph, the negotiator may be a
8 member of the state body.

9 (D) For purposes of this paragraph, “lease” includes renewal
10 or renegotiation of a lease.

11 (E) Nothing in this paragraph shall preclude a state body from
12 holding a closed session for discussions regarding eminent domain
13 proceedings pursuant to subdivision (e).

14 (8) Prevent the California Postsecondary Education
15 Commission from holding closed sessions to consider matters
16 pertaining to the appointment or termination of the Director of the
17 California Postsecondary Education Commission.

18 (9) Prevent the Council for Private Postsecondary and
19 Vocational Education from holding closed sessions to consider
20 matters pertaining to the appointment or termination of the
21 Executive Director of the Council for Private Postsecondary and
22 Vocational Education.

23 (10) Prevent the Franchise Tax Board from holding closed
24 sessions for the purpose of discussion of confidential tax returns
25 or information the public disclosure of which is prohibited by law,
26 or from considering matters pertaining to the appointment or
27 removal of the Executive Officer of the Franchise Tax Board.

28 (11) Require the Franchise Tax Board to notice or disclose any
29 confidential tax information considered in closed sessions, or
30 documents executed in connection therewith, the public disclosure
31 of which is prohibited pursuant to Article 2 (commencing with
32 Section 19542) of Chapter 7 of Part 10.2 of the Revenue and
33 Taxation Code.

34 (12) Prevent the Board of Corrections from holding closed
35 sessions when considering reports of crime conditions under
36 Section 6027 of the Penal Code.

37 (13) Prevent the State Air Resources Board from holding
38 closed sessions when considering the proprietary specifications
39 and performance data of manufacturers.

1 (14) Prevent the State Board of Education or the
2 Superintendent of Public Instruction, or any committee advising
3 the board or the superintendent, from holding closed sessions on
4 those portions of its review of assessment instruments pursuant to
5 Chapter 5 (commencing with Section 60600) of, or pursuant to
6 Chapter 8 9 (commencing with Section 60850) of, Part 33 of the
7 Education Code during which actual test content is reviewed and
8 discussed. The purpose of this provision is to maintain the
9 confidentiality of the assessments under review.

10 (15) Prevent the California Integrated Waste Management
11 Board or its auxiliary committees from holding closed sessions for
12 the purpose of discussing confidential tax returns, discussing trade
13 secrets or confidential or proprietary information in its possession,
14 or discussing other data, the public disclosure of which is
15 prohibited by law.

16 (16) Prevent a state body that invests retirement, pension, or
17 endowment funds from holding closed sessions when considering
18 investment decisions. For purposes of consideration of
19 shareholder voting on corporate stocks held by the state body,
20 closed sessions for the purposes of voting may be held only with
21 respect to election of corporate directors, election of independent
22 auditors, and other financial issues that could have a material effect
23 on the net income of the corporation. For the purpose of real
24 property investment decisions that may be considered in a closed
25 session pursuant to this paragraph, a state body shall also be
26 exempt from the provisions of paragraph (7) relating to the
27 identification of real properties prior to the closed session.

28 (17) Prevent a state body, or boards, commissions,
29 administrative officers, or other representatives that may properly
30 be designated by law or by a state body, from holding closed
31 sessions with its representatives in discharging its responsibilities
32 under Chapter 10 (commencing with Section 3500) of Division 4
33 of Title 1 as the sessions relate to salaries, salary schedules, or
34 compensation paid in the form of fringe benefits. For the purposes
35 enumerated in the preceding sentence, a state body may also meet
36 with a state conciliator who has intervened in the proceedings.

37 (d) (1) Notwithstanding any other provision of law, any
38 meeting of the Public Utilities Commission at which the rates of
39 entities under the commission's jurisdiction are changed shall be
40 open and public.



(2) Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against any person or entity under the jurisdiction of the commission.

(e) (1) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

(2) For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(B) (i) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body.

(ii) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to clause (i).

(C) (i) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

(ii) The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to subparagraph (A) or (B), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any

1 case no later than one week after the closed session. The
2 memorandum shall be exempt from disclosure pursuant to Section
3 6254.25.

4 (iii) For purposes of this subdivision, “litigation” includes any
5 adjudicatory proceeding, including eminent domain, before a
6 court, administrative body exercising its adjudicatory authority,
7 hearing officer, or arbitrator.

8 (iv) Disclosure of a memorandum required under this
9 subdivision shall not be deemed as a waiver of the lawyer-client
10 privilege, as provided for under Article 3 (commencing with
11 Section 950) of Chapter 4 of Division 8 of the Evidence Code.

12 (f) In addition to subdivisions (a), (b), and (c), nothing in this
13 article shall be construed to do any of the following:

14 (1) Prevent a state body operating under a joint powers
15 agreement for insurance pooling from holding a closed session to
16 discuss a claim for the payment of tort liability or public liability
17 losses incurred by the state body or any member agency under the
18 joint powers agreement.

19 (2) Prevent the examining committee established by the State
20 Board of Forestry and Fire Protection, pursuant to Section 763 of
21 the Public Resources Code, from conducting a closed session to
22 consider disciplinary action against an individual professional
23 forester prior to the filing of an accusation against the forester
24 pursuant to Section 11503.

25 (3) Prevent an administrative committee established by the
26 California Board of Accountancy pursuant to Section 5020 of the
27 Business and Professions Code from conducting a closed session
28 to consider disciplinary action against an individual accountant
29 prior to the filing of an accusation against the accountant pursuant
30 to Section 11503. Nothing in this article shall be construed to
31 prevent an examining committee established by the California
32 Board of Accountancy pursuant to Section 5023 of the Business
33 and Professions Code from conducting a closed hearing to
34 interview an individual applicant or accountant regarding the
35 applicant’s qualifications.

36 (4) Prevent a state body, as defined in ~~Section 11121.2~~
37 *subdivision (b) of Section 11121*, from conducting a closed session
38 to consider any matter that properly could be considered in closed
39 session by the state body whose authority it exercises.



(5) Prevent a state body, as defined in ~~Section 11121.7~~ *subdivision (d) of Section 11121*, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to *subdivisions (a) or (b) of Section 11121* ~~or 11121.2~~.

(6) Prevent a state body, as defined in ~~Section 11121.8~~ *subdivision (c) of Section 11121*, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.

(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:

(A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.

(B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(8) Require the State Board of Equalization to disclose any action taken in closed session or documents executed in connection with that action, the public disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.

(9) Prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of the Office of Emergency Services or the Governor concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(g) This article ~~shall~~ *does* not prevent either of the following:

(1) The Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.

(2) The Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.

1 SEC. 11. Section 11126.3 of the Government Code is
2 amended to read:

3 11126.3. (a) Prior to holding any closed session, the state
4 body shall disclose, in an open meeting, the general nature of the
5 item or items to be discussed in the closed session. The disclosure
6 may take the form of a reference to the item or items as they are
7 listed by number or letter on the agenda. If the session is closed
8 pursuant to paragraph (2) of subdivision (d) of Section 11126, the
9 state body shall state the title of, or otherwise specifically identify,
10 the proceeding or disciplinary action contemplated. However,
11 should the body determine that to do so would jeopardize the
12 body's ability to effectuate service of process upon one or more
13 unserved parties if the proceeding or disciplinary action is
14 commenced or that to do so would fail to protect the private
15 economic and business reputation of the person or entity if the
16 proceeding or disciplinary action is not commenced, then the state
17 body shall notice that there will be a closed session and describe
18 in general terms the purpose of that session. If the session is closed
19 pursuant to subparagraph (A) of paragraph (2) of subdivision (e)
20 of Section 11126, the state body shall state the title of, or otherwise
21 specifically identify, the litigation to be discussed unless the body
22 states that to do so would jeopardize the body's ability to effectuate
23 service of process upon one or more unserved parties, or that to do
24 so would jeopardize its ability to conclude existing settlement
25 negotiations to its advantage.

26 (b) In the closed session, the state body may consider only those
27 matters covered in its disclosure.

28 (c) The disclosure shall be made as part of the notice provided
29 for the meeting pursuant to Section 11125 or pursuant to
30 subdivision (a) of Section 92032 of the Education Code and of any
31 order or notice required by Section 11129.

32 (d) If, after the agenda has been published in compliance with
33 this article, any ~~additional~~ pending litigation (under subdivision
34 (e) of Section 11126) matters arise, the postponement of which
35 will prevent the state body from complying with any statutory,
36 court-ordered, or other legally imposed deadline, the state body
37 may proceed to discuss those matters in closed session and shall
38 publicly announce in the meeting the title of, or otherwise
39 specifically identify, the litigation to be discussed, unless the body
40 states that to do so would jeopardize the body's ability to effectuate



1 service of process upon one or more unserved parties, or that to do
2 so would jeopardize its ability to conclude existing settlement
3 negotiations to its advantage. Such an announcement shall be
4 deemed to comply fully with the requirements of this section.

5 (e) Nothing in this section shall require or authorize a
6 disclosure of names or other information that would constitute an
7 invasion of privacy or otherwise unnecessarily divulge the
8 particular facts concerning the closed session or the disclosure of
9 which is prohibited by state or federal law.

10 (f) After any closed session, the state body shall reconvene into
11 open session prior to adjournment and shall make any reports,
12 provide any documentation, and make any other disclosures
13 required by Section 11125.2 of action taken in the closed session.

14 (g) The announcements required to be made in open session
15 pursuant to this section may be made at the location announced in
16 the agenda for the closed session, as long as the public is allowed
17 to be present at that location for the purpose of hearing the
18 announcement.

19 SEC. 12. Section 5080.24 of the Public Resources Code is
20 amended to read:

21 5080.24. (a) The department may enter into an interim
22 agreement with the Pacific Grove-Asilomar Operating
23 Corporation on the same basis as the cancelled contract, except
24 that it shall be modified as specified by subdivisions (b) to (e),
25 inclusive, until the department awards a contract pursuant to
26 Section 5080.25.

27 (b) Any interim agreement pursuant to subdivision (a) shall
28 provide that the amount of compensation received by the general
29 manager of the Pacific Grove-Asilomar Operating Corporation
30 shall be subject to determination by the Legislature in the annual
31 Budget Act.

32 (c) Any interim agreement pursuant to subdivision (a) shall
33 require the Pacific Grove-Asilomar Operating Corporation to
34 continue to set rates and to take reservations for dates beyond the
35 date for which the interim agreement is operative.

36 (d) Any interim agreement pursuant to subdivision (a) shall
37 provide that the meetings of the board of directors of the Pacific
38 Grove-Asilomar Operating Corporation shall be conducted in
39 accordance with the Bagley-Keene Open Meeting Act (Article 9
40 (commencing with Section 11120) of Chapter 1 or Part 1 of

1 Division 3 of Title 2 of the Government Code) and the board of
2 directors shall be considered a state body under ~~Section 11121.2~~
3 *subdivision (b) of Section 11121* of the Government Code.

4 (e) Any interim agreement pursuant to subdivision (a) shall
5 provide that all business and financial records of the Pacific
6 Grove-Asilomar Operating Corporation, including existing
7 records, but not including records that would be personal
8 information under Section 1798.3 of the Civil Code if maintained
9 by an agency, shall be treated as public records subject to
10 disclosure under the California Public Records Act (Chapter 3.5
11 (commencing with Section 6250) of Division 7 of Title 1 of the
12 Government Code). The term “employment contract” as used in
13 Section 6254.8 of the Government Code shall be deemed to mean
14 an employment contract between the Pacific Grove-Asilomar
15 Operating Corporation and its employee.

